

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Michael B. Ball

Serial No.: 09/427,123

Filed: October 21, 1999

For: MULTI-CHIP STACKED DEVICES

Confirmation No.: 2755

Examiner: R. Potter

Group Art Unit: 2822

Attorney Docket No.: 2269-2818.1US
(92-0399.01/RE)

VIA ELECTRONIC FILING
August 1, 2007

AFFIDAVIT OF BRICK G. POWER

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

A Final Office Action was mailed in the above-referenced application on October 8, 2003. We promptly responded to the Final Office Action on October 3, 2003, by filing a response and a terminal disclaimer.

In following-up on the application, my paralegal, Stacey Stamper, determined that no further actions had been received from the U.S. Patent & Trademark Office. Stacey obtained a print-out of the status of the application from the Patent Office's PAIR system and began contacting the examiner on a frequent basis for updates on the status of the application. On about

March 25, 2003, Stacey was becoming somewhat frustrated because the Examiner was no longer returning her messages. She brought the file to me.

I also left a few messages with the Examiner, without any response. On April 6, 2004, I telephoned the Publications branch and spoke with an employee who provided me with the telephone number of the individual in whose office the file was apparently physically located at that time. That individual's name is Lissi Marquis; her telephone number is (571) 272-1596. She is apparently a special examiner for Group 2810.

As Ms. Marquis had not returned my message by April 7, 2004, I spoke with my partner, Jim Duzan about the application. Jim recommended contacting the group director.

I telephoned the director of Group 2810 (at (571) 272-1650) and spoke with his secretary, a woman named Bridgette. Bridgette was very helpful. She physically checked the offices of the Examiner (Roy Potter) and Ms. Marquis, and checked a few other places, but was unable to locate the file. She then left a message with Hien Phan ((571) 272-1606), who is apparently Ms. Marquis's boss. Mr. Phan promptly called me, letting me know that he would find out where the file is located and determine its status. He then called back, leaving a message that he had spoken with Ms. Marquis and that she would soon call back.

Ms. Marquis called shortly thereafter, also leaving a message. In her message, Ms. Marquis indicated that we had met the Examiner's requirements and that the case had been allowed, although no Notice has been mailed. She stated that there was no need for us to do anything further in the application to keep the application "alive." Ms. Marquis also indicated that she waiting for files from the related applications to identify any formal matters that still needed to be resolved in the above-referenced application before the Notice of Allowance could be mailed.

In reliance upon Ms. Marquis's instructions, we did not file a Request for Continued Examination (RCE) or any petitions for extension of time, but awaited further action on the Office's part.

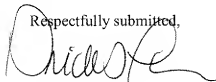
After several months passed without receiving any action on the application, we submitted a Status Inquiry on February 18, 2005. We received no response to that Status Inquiry.

On May 7, 2007, an Advisory Action was mailed, indicating that the application had been abandoned on the date the Advisory Action was mailed. In the Advisory Action, it was asserted that a suitable Supplemental Declaration did not accompany the response to the final Office Action of October 3, 2003. As the last revisions to the claims were submitted on May 30, 2003, the Amendment in which those revisions were set forth was accompanied by a Supplemental Declaration meeting the requirements of 35 U.S.C. § 1.75(a), and a terminal disclaimer was timely filed to overcome the only remaining ground of rejection (obviousness-type double patenting) in the final Office Action of October 8, 2003, it is believed that all of the requirements for placing the above-referenced application were met well in advance of May 7, 2007, and certainly within three months of the October 8, 2003, mailing date of the final Office Action.

Copies of each of the foregoing documents are available in the Office's PAIR system.

In view of the foregoing, it is respectfully requested that the above-referenced application be withdrawn from abandonment for unavoidable delay in responding to the final Office Action of October 8, 2003, and that the application be allowed.

Respectfully submitted,



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